

IN RE: PETITION FOR SPECIAL HEARING
E/S St. Timothy's Lane, 92' N
of Frederick Avenue
(3 St. Timothy's Lane)
1st Election District
1st Councilmanic District
Jacqueline L. LeConte
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-122-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter originally came before the Zoning Commissioner as a Petition for Special Hearing for that property known as 3 St. Timothy's Lane, located in the vicinity of Catonsville in western Baltimore County. The Petition was filed by the owner of the property, Jacqueline Lois LeConte, through her attorney, F. Michael Grace, Esquire. The Petitioner requested approval of the use of the subject property as a legal, nonconforming four apartment dwelling, in accordance with the site plan and supporting documents submitted into evidence as Petitioner's Exhibits 1 through 4.

The matter was scheduled for public hearing on November 1, 1993. Appearing at that hearing on behalf of the Petition were Jacqueline LeConte, property owner, her ex-husband, William L. LeConte, Eva B. and Mary A. Rittershofer, Mary E. Norris, and Virginia L. Buchanan. The Petitioner was represented by F. Michael Grace, Esquire. There were no Protestants present.

Testimony and evidence offered at the hearing revealed that the subject property consists of .3405 acres, more or less, split zoned D.R. 5.5 and B.L. and is improved with a two and one-half story dwelling containing four (4) apartments. This property is the first residential property on St. Timothy's Lane behind the commercial uses which front Freder-

ick Avenue. The property abuts the rear of a Dunkin Donuts restaurant and Signet Bank building on the east and south sides, while to the north and west across the street from the site are other residential uses. Mrs. LeConte testified that the property had been in the family for many years but that was purchased by her in April, 1993 as part of a settlement of litigation between family members. She testified that the property was originally owned by her parents who are now deceased. Mrs. LeConte testified that her parents purchased the property in the 1960s and that she and her husband resided in the property from 1962 to 1964. She described the layout of the dwelling and the four apartments therein. Specifically, there is an apartment in the basement, an apartment on the first floor, and two apartments on the second floor. A private entrance exists for each apartment and each is equipped with its own kitchen and bath. Mrs. LeConte further testified that the use of the property as four apartments has been continuous and uninterrupted since at least the early 1960s.

Mr. LeConte testified that he is the Petitioner's ex-husband and that he has been familiar with the property since the late 1950s. He corroborated his ex-wife's testimony that they resided together on the property in the early 1960s and that during and since their association with the property, it has been used continuously and without interruption as four apartments. His testimony was corroborated by Eva Rittershofer, who has lived in the Catonsville area since 1945, and became familiar with the property when she moved into the neighborhood in the 1970s. She testified that she has been familiar with the apartment use of this property since that time.

As noted above, there were no Protestants present at the November hearing. After the presentation of the testimony outlined above, this

- 2 -

Zoning Commissioner questioned the Petitioner and her Counsel concerning the offer of evidence to support the requested relief. I pointed out at that time that a nonconforming use is defined in Section 101 of the B.C.Z.R. as "a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use." I advised the Petitioner that a nonconforming use designation was often utilized to "grandfather" an otherwise illegal use. That is, if a given use on a particular property is illegal, pursuant to the zoning designation for that property, a nonconforming use designation can legitimize that use, if testimony and evidence presented is persuasive to establish that the use existed prior to the adoption of a zoning classification or prohibiting regulation. Also, the Petitioner's attention was drawn to Section 104 of the B.C.Z.R. which governs nonconforming uses. That Section provides that the character of a nonconforming use cannot be altered or changed, and that any nonconforming use which is discontinued for more than one year is forfeited.

The regulations relating to a nonconforming use are most relevant in this case, based upon the extent of the testimony offered by the Petitioner and her witnesses. Specifically, it is to be noted that the first set of zoning regulations came to Baltimore County on January 2, 1945. Subsequently, the regulations were comprehensively readopted in 1955. The zoning of the property since 1955 prohibits a four-apartment use of the property. Thus, the Petitioner must adduce testimony and evidence which would show that the property has been used as a four apartment dwelling since prior to 1955.

After a discussion of these issues and law, Counsel for the Petitioner advised that Mrs. LeConte was unable to offer any testimony and

- 3 -

evidence that the use pre-dated 1955. Rather, the testimony and evidence offered only established the use as existing in the early 1960s. Counsel for the Petitioner then asked for a continuance of the matter to explore other options which might be available to legitimize the four apartments presently existing within the dwelling.

The case was subsequently rescheduled for additional hearing on June 21, 1994. At that time, the relief requested was amended and a Petition for Variance was added to the special hearing relief sought. In the Petition for Variance, the Petitioner requests relief from Section 402.1 of the B.C.Z.R. to permit a lot width of 90 feet in lieu of the required 95 feet for three (3) apartment units, or in the alternative, a lot width of 90 feet in lieu of the required 110 feet and a lot area of 14,850 sq. ft. in lieu of the minimum required 16,000 sq. ft. for four (4) apartment units.

At the hearing held in June, 1994, the Petitioner cited Section 402 of the B.C.Z.R. which governs conversion of dwellings to multi-family residential uses. It was noted that Section 402.1 of the B.C.Z.R. allows B.L. zones to be used and permitted for residential purposes as limited by the zoning classifications of residential property immediately adjoining the parcel. Thus, in this case, the residential uses for the B.L. zoned portion of this site would be permitted as limited by the D.R. 5.5 regulations, in that the property is split zoned D.R. 5.5 and B.L. Within Section 1801.1.A.1.c of the B.C.Z.R., multi-family buildings are allowed in the D.R. 5.5 zones. Multi-family buildings are defined by Section 101 of the B.C.Z.R. as a structure containing three or more units. Based on these Sections it is clear that the property may contain multi residential uses, if same complies with Section 402 and the conversion table found therein. Within that Section, it is required that the lot area contain a

- 4 -

minimum of 10,000 sq.ft. for two families, and 3,000 sq.ft. for each additional family. In that the subject lot contains 14,850 sq.ft., the Petitioner complies with the lot area requirements for three (3) apartments. However, the building lot width is only 90 feet in lieu of the required 95 feet. Thus, in order to legitimize the property's use as three apartments, the Petitioner must obtain a variance to lot width requirements.

In the alternative, the Petitioner also requested variances for a four (4) apartment use. In addition to the lot width variance, a lot area variance was requested. With the additional dwelling unit, the lot width required is increased by 15 feet, or 110 feet and therefore, a greater variance from lot width requirements is necessary. Furthermore, since lot area requirements for four units is a minimum 16,000 sq.ft., this property does not comply since it is only 14,850 sq.ft. in area.

Considering first the three apartment use, I am persuaded to grant a variance from Section 402.1 of the B.C.Z.R. as it relates to the lot width. The variance here is minor, to wit, 5 feet, or 90 feet in lieu of the required 95 feet. Clearly, the long history of the use of this property as a multi-apartment dwelling which has continued to the present time, demonstrates that there would be no adverse impact upon the surrounding locale if the variance is granted. That is, there have been four (4) apartments on the site for 30 years and there is no evidence that such use has been detrimental. Moreover, in view of the size of the lot and the natural site constraints imposed by its configuration and area, the Petitioner would suffer a practical difficulty if the variance relief were denied. Furthermore, I believe that a granting of this variance would be consistent with the spirit and intent of the B.C.Z.R.

Having approved its use as three apartments, attention is next turned to the alternative request for a four apartment use. After careful consideration in this case, I believe that continued utilization of the building as four apartments would not be detrimental to the health, safety or general welfare of the locale. Again, it is to be noted that the property has been used in this fashion for in excess of thirty years. Clearly, a four apartment use of this structure is appropriate, particularly noting that the property abuts the heavy commercial corridor of Frederick Road and is not far from the Catonsville business district. The split zoning classification is further evidence of the fact that the property serves as a natural buffer between single family residential properties in the interior of this community and the commercial properties on Frederick Road.

However, notwithstanding my conclusion in this regard, I regretfully cannot grant the variances requested. Although granting a lot width of 90 feet in lieu of the required 110 feet would be permissible, I do not believe that the Zoning Commissioner has the authority to grant variances from lot area requirements. Indeed, in this instance, what the Petitioner seeks is a variance in the density allowed.

The powers of the Zoning Commissioner are well established within Title 26 of the Baltimore County Code and the B.C.Z.R. Essentially, the Zoning Commissioner is empowered to interpret and administer the zoning regulations of Baltimore County. However, this Office is not akin to a Judge or a Court of Law. As much as I would like, I cannot "do equity" in this case and permit the Petitioner to obtain a density variance and maintain four apartments on this property. Therefore, the Petition for Special Hearing must be denied and the Petition for Variance granted in part and denied in part.

- 6 -

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special hearing relief sought shall be denied and the variance relief granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of September, 1994 that the Petition for Variance seeking relief from Section 402.1 of the B.C.Z.R. to permit with a lot width of 90 feet in lieu of the required 95 feet for three (3) apartments, be and is hereby GRANTED, subject to the following restrictions:

- 1) Within sixty (60) days of the date of this Order, the Petitioner shall take appropriate steps to remove the fourth apartment unit. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order in the event it becomes necessary to do so as a result of a complaint.

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking approval of the use of the subject property as a legal, nonconforming four apartment dwelling, in accordance with Petitioner's Exhibit 4, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 402.1 of the B.C.Z.R. to permit a lot width of 90 feet in lieu of the required 110 feet and a lot area of 14,850 sq. ft. in lieu of the minimum required 16,000 sq. ft. for four (4) apartment units, be and is hereby DENIED.

LES:bjls

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

September 8, 1994

(410) 887-4194

F. Michael Grace, Esquire
583 Frederick Road, Suite 3
Catonsville, Maryland 21228

RE: PETITIONS FOR SPECIAL HEARING & VARIANCE
E/S St. Timothy's Lane, 92' N of Frederick Avenue
(3 St. Timothy's Lane)
1st Election District - 1st Councilmanic District
Jacqueline L. LeConte - Petitioner
Case No. 94-122-SPH

Dear Mr. Grace:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied and the Petition for Variance has been granted in part and denied in part in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjls

cc: Ms. Jacqueline L. LeConte
9226 West Stayman Drive, Ellicott City, Md. 21042

People's Counsel
File

TO: PUTNEY PUBLISHING COMPANY
September 30, 1993 Issue - Jeffersonian

Please forward billing to:

F. Michael Grace, Esq.
Gisriel & Brush, P.A.
583 Frederick Road, Suite 3
Catonsville, Maryland 21228
410-744-5724

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-122-SPH (Item 118)
3 St. Timothy's Lane
E/S St. Timothy's Lane, 92' N of corner Frederick Avenue and St. Timothy's Lane
1st Election District - 1st Councilmanic
Petitioner(s): Jacqueline Lois LeComte
HEARING: MONDAY, NOVEMBER 1, 1993 at 10:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve a non-conforming use as a four apartment dwelling.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

SEP. 23 1993 (410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-122-SPH (Item 118)
3 St. Timothy's Lane
E/S St. Timothy's Lane, 92' N of corner Frederick Avenue and St. Timothy's Lane
1st Election District - 1st Councilmanic
Petitioner(s): Jacqueline Lois LeComte
HEARING: MONDAY, NOVEMBER 1, 1993 at 10:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve a non-conforming use as a four apartment dwelling.

Arnold Jablon
Director

cc: Jacqueline Lois LeComte
F. Michael Grace, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink
on Recycled Paper

TO: PUTNEY PUBLISHING COMPANY
May 19, 1994 Issue - Jeffersonian

Please forward billing to:

F. Michael Grace, Esq.
300 Frederick Road, Suite 100
Catonsville, Maryland 21228
744-5724

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Continued from 11/1/93
CASE NUMBER: 94-122-SPH (Item 118)
3 St. Timothy's Lane
E/S St. Timothy's Lane, 92' N of Frederick Avenue and St. Timothy's Lane
1st Election District - 1st Councilmanic
Petitioner(s): Jacqueline Lois LeComte
HEARING: TUESDAY, JUNE 21, 1994 at 9:00 a.m. Rm. 118 Old Courthouse.

Special Hearing to approve the non-conforming use as a four apartment dwelling; or in the alternative, that density will not be affected by an area variance.
Variance to permit a lot width of 90 feet in lieu of the required 95 feet for three units or 110 feet for four units and a lot area of 14,850 square feet in lieu of 16,000 for four units.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

MAY 12, 1994

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Continued from 11/1/93
CASE NUMBER: 94-122-SPH (Item 118)
3 St. Timothy's Lane
E/S St. Timothy's Lane, 92' N of Frederick Avenue and St. Timothy's Lane
1st Election District - 1st Councilmanic
Petitioner(s): Jacqueline Lois LeComte
HEARING: TUESDAY, JUNE 21, 1994 at 9:00 a.m. Rm. 118 Old Courthouse.

Special Hearing to approve the non-conforming use as a four apartment dwelling; or in the alternative, that density will not be affected by an area variance.
Variance to permit a lot width of 90 feet in lieu of the required 95 feet for three units or 110 feet for four units and a lot area of 14,850 square feet in lieu of 16,000 for four units.

Arnold Jablon
Director

cc: Jacqueline Lois LeComte
F. Michael Grace, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink
on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

October 22, 1993

F. Michael Grace, Esquire
Gisriel & Brush, P.A.
583 Frederick Road, Suite 3
Catonsville, Maryland 21228

RE: Case No. 94-122-SPH, Item No. 118
Petitioner: Jacqueline Lois LeComte
Petition for Special Hearing

Dear Mr. Grace:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on September 13, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: October 8, 1993
Zoning Administration and Development Management
FROM: Robert W. Bowling, Senior Engineer
Development Plan Review Section
RE: Zoning Advisory Committee Meeting
for October 4, 1993
Item No. 118

The Development Plan Review Section has reviewed the subject zoning item. Adequate onsite parking must be provided.

RWB:s

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: January 31, 1994
Zoning Administration and Development Management
FROM: Robert W. Bowling, Senior Engineer
Development Plan Review Section
RE: Zoning Advisory Committee Meeting
for January 27, 1994
Item No. 118

The Development Engineering Section has reviewed the subject zoning item. We recommend that buffering be required where existing existing residential structures. The site should comply with the Landscape Manual for the 1st Edition along old corner lot.

RWB:s

cc: File

94-252-XA

RECEIVED
JAN 4 1994
ZADM

SHA Maryland Department of Transportation
State Highway Administration

O. James Lightizer
Secretary
Hal Kassoff
Administrator

9-22-93

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: BALCO CO.
Item No.: +118 (ET)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
John Contestable, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2868 (Toll Free)
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21203

5-17-94

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 116
Case No. 94-122-SPH

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Vailing Address: P.O. Box 717 - Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street - Baltimore, Maryland 21202

BS/

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: September 30, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 97, 106, 117, 118, 120, 124, 126, 127 and 128.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey M. Long
Division Chief: David L. Kern

PK/JL:lw

ZAC-97/PZONE/ZAC1

Baltimore County Government
Department of Permits and Licenses

111 West Chesapeake Avenue
Towson, MD 21204

SEPTEMBER 28, 1993 (410) 887-3610

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

ZONING AGENDA - MEETING OF SEPTEMBER 27, 1993

RE: Property Owner: Clarence Cox
Location: #2929 Eastern Boulevard
Item No.: #113(MJK)
No Comments.

RE: Property Owner: Jacqueline Lois LeConte
Location: #3 St. Timothy's Lane
Item No.: #118 (RT)
1. Fire hydrants for the referenced property are required and shall be located at intervals of 750 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
Sprinklers shall be installed in accordance with MD State Code, State Bill #658.

RE: Property Owner: Eva M. Nolan & Nicholas J. Nolan
Location: #4342 Penn Avenue
Item No.: #119 (RT)
No Comments.

RE: Property Owner: Dorothy M. Reaman
Location: #1402 Edmondson Avenue
Item No.: #120 (JCM)
No Comments.

RE: Property Owner: Melvin Gladney and Parmie Gladney
Location: #6734 Dogwood Road
Item No.: 121 (JCM)
No Comments.

RE: Property Owner: Sandra Andrejak
Location: NE/S Stemmers Run Road & #613 <Norris Lane - Kenwood's>
Item No.: #122 (WCR) & 123 (WCR)
No Comments.

RE: Property Owner: William Hirshfeld and Loretta Hirshfeld
Location: #15 Merry Hill Court
Item No.: 124 (JLL)
No Comments.

Printed with Recycled Ink on Recycled Paper

6/3/94

RE: PETITION FOR SPECIAL HEARING *
PETITION FOR VARIANCE *
3 St. Timothy's Lane *
E/S St. Timothy's Lane, 92' N of *
Frederick Avenue and St. Timothy's *
Lane, 1st Election Dist., *
1st Councilmanic *
Jacqueline Lois LeConte *
Petitioner *
* * * * *

BEFORE THE
ZONING COMMISSIONER
FOR BALTIMORE COUNTY
CASE NO.: 94-122-SPH

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROL D. SCHMIDT
Deputy People's Counsel
Room 412, Court House
400 Washington Avenue
Towson, MD 21204
(410) 887-4386

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of June, 1994, a copy of the foregoing Entry of Appearance was mailed to F. Michael Grace, Esquire, Gisriel and Brush, P.A., 583 Frederick Road, Catonsville, MD 21228, attorney for Petitioner.

PETER MAX ZIMMERMAN
JUN 3 1994
ZADM

BALTIMORE COUNTY, MARYLAND
Inter-office Correspondence

TO: Memo to the file

DATE: November 5, 1993

FROM: Lawrence E. Schmidt
Zoning Commissioner

SUBJECT: Case No. 94-122-SPH
Jacqueline L. LeConte

This file came in as a Petition for Spec. Hearing for the property at 3 St. Timothy's Lane in Catonsville. There were no Protestants. The Pet. was repr. by F. Michael Grace, Esquire. He is apparently a real estate lawyer who is handling this case for a reduced fee for the Petitioner.

There was a great amount of testimony about the ownership and use of this property since acquisition by the Petitioner's parents in the early 1960s. It is clear, based on testimony and evidence presented, that since her parents death, the Petitioner has used the property for four apartments. Thus, it appears to be no problem with the uninterrupted and continuous use of the nonconforming use. The problem stems from when the use was established. I went off the record and had a lengthy discussion with counsel. He advised that he has no evidence to establish the nonconforming use prior to 1959 which is reflected in the affidavits marked as Pet. Ex. 3A and 3B. I then asked him what was the operative date and he did not know. Apparently, he has not investigated that point. I advised him that 1955 may well be the applicable date and gave him a brief history of the adoption of zoning in Baltimore County.

I then recessed the hearing and referred him to John Alexander. John told me over the telephone that he thought 1955 would be the operative date but would assist the attorney in reviewing the zoning maps to see if there was any time that the use was permitted in the intervening years. I told the attorney that unless he could get proof prior to 1955, I was going to have to deny the Petition irrespective of the fact that the use has been continuous for what appears to be more than 30 years and that clearly the use is not detrimental to the surrounding locale. As the other exhibits and photographs show, this is immediately next door to a bank and Dunkin Donuts store and appears to be an appropriate use; nonetheless that has nothing to do with nonconforming. I advised the attorney that I would hold the case for several weeks and wait to hear from him as to whether he had obtained the proof he needs. I suggested that he ascertain whether there were elderly neighbors in the community who might be able to provide the testimony or if he could obtain information from Baltimore Gas and Electric, Dept. of Assessments, etc.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

November 23, 1993 (410) 887-4386

F. Michael Grace, Esquire
Gisriel and Brush, P.A.
583 Frederick Road, Suite 3
Catonsville, Maryland 21228

RE: Case No. 94-122-SPH
Petition for Special Hearing
Property: 3 St. Timothy's Lane
Jacqueline Lois LeConte, Petitioner

Dear Mr. Grace:

I am writing in response to your letter dated November 1, 1993 and the conversation we had on this date. I have reviewed the zoning maps which you have submitted relative to the zoning history of this property. It appears that the property has been split zoned B.L. and D.R.5.5 as far back as 1955. The precise location of the zoning line has changed, however, that does not appear to make any practical difference as to permitted uses on this property.

Permitted uses in a B.L. zone are governed by Section 230 of the Baltimore County Zoning Regulations (B.C.Z.R.). Pursuant to Section 230.1, uses permitted and as limited in a residential zone immediately adjoining the parcel are allowed. Thus, residential uses on the B.L. portion of the site are permitted as limited by the regulations for a D.R.5.5 zone, in that D.R.5.5 abuts the B.L. zone. Within Section 1801.1.A.1.c. of the B.C.Z.R., multi-family buildings are allowed. Moreover, multi-family buildings are defined by Section 101 of the B.C.Z.R. as a structure containing three or more apartments.

F. Michael Grace, Esquire
Gisriel and Brush, P.A.
583 Frederick Road, Suite 3
Catonsville, Maryland 21228
page 2.....

Based on the above noted sections, a multi-family dwelling would, therefore, be permitted on this property. However, Section 402 of the B.C.Z.R. governs conversion of one family dwellings to multi-family use. Section 402 was enacted in 1955 and designates separate requirements for each of the residential zones. The zone designated as R6 in 1955 is now known as D.R.5.5. From a review of the site plan, it appears that the lot width and side yard requirements have been met and are satisfied on the subject property. However, the property for a 4 apartment use is deficient in terms of the required lot area. That is, Section 402 requires 10,000 sq. ft. of lot area for two families, with 3,000 ft. additional for each additional family. The subject lot is 14,850 ft. Thus, 3 apartments would be permitted under the regulations.

In sum, based upon the information presented, it appears that a 3 apartment unit could continue without any zoning relief. However, if the Petitioner desires to continue use of 4 apartments on the property, a non-conforming nature of the use, as established prior to 1955, must be shown.

Give me a call if you have any questions regarding the above.

Very truly yours,
Lawrence E. Schmidt
Zoning Commissioner

LES:mmn

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

March 23, 1994 (410) 887-4386

F. Michael Grace, Esquire
Gisriel and Brush, P.A.
300 Frederick Road
Suite 100
Catonsville, Maryland 21228

RE: 3 St. Timothy's Lane
Catonsville, Maryland 21228
Case No. 94-122-SPH

Dear Mr. Grace:

This is to acknowledge receipt of a copy of your letter dated March 11, 1994 to W. Carl Richards, Zoning Coordinator, of the Baltimore County Office of Zoning Administration and Development Management. In accordance with the meeting between Carl, you and I, I will withhold issuing a decision on the issues presented at the public hearing held on November 1, 1993 regarding this property.

Per your letter, I understand that you have filed an amended Petition presenting an alternative theory in support of your request to approve four apartments on the subject dwelling. In view of the submission of this amended Petition, I will defer issuing a decision on the original hearing of November 1, 1993, at this point, and ultimately issue a single written opinion and Order after the hearing on the amended Petition which is to be scheduled.

Please do not hesitate to contact me should you have any further questions regarding this matter.

Very truly yours,
Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
cc: W. Carl Richards, Zoning Coordinator
Office of Zoning Administration
cc: Gwendolyn Stephens
Docket Clerk, Office of Zoning Administration



CHARLES CENTER • P.O. BOX 1475 • BALTIMORE, MARYLAND 21203-1475

Customer Relations Department

May 14, 1993

Lois Leconte
9226 W. Stayman Drive
Ellicott City, Maryland 21042

Re: 3 St-Timothy Lane

Dear Ms. Leconte:

I received your recent inquiry regarding billing at the above address. Our records show the non-residential rates for both gas and electric started in June, 1970. The rates may have started previous to this date, but our records do not go back any further to document this information.

If I can be of further assistance or if you have any further questions, I can be reached at 234-5935.

Sincerely,

Nancy Milner
Nancy Milner
Customer Representative

PETITIONER'S
EXHIBIT No 1

HOMEOWNER POLICY DECLARATIONS

COMPANY NAME THE AMERICAN INSURANCE COMPANY

POLICY NUMBER 421 446 84 23

ON 11/30/89, AT 12:01 A.M. STANDARD TIME AT THE RESIDENCE PREMISES YOUR POLICY CONTINUES TO 11/30/90. INFLATION PROTECTION HAS INCREASED COVERAGES ON YOUR POLICY.

NAMED INSURED
HENRY J & EDNA M HARDEE
3 ST TIMOTHY LANE
BALTO MD 21228

AGENT OR BROKER
KRON MILLER KNIGHT/SWACKELFORD
1104 KENILWORTH DR STE. 500
BALTIMORE MD 21204
(301) 583-5457

THE RESIDENCE PREMISES COVERED BY THIS POLICY IS LOCATED AT THE ABOVE ADDRESS UNLESS STATED BELOW:

| COVERAGES AND LIMITS OF LIABILITY | |
|-----------------------------------|---------------------------|
| SECTION 1: A. DWELLING | \$144,200 |
| C. PERSONAL PROPERTY | \$58,480 |
| D. LOSS OF USE | \$14,620 |
| SECTION 2: E. PERSONAL LIABILITY | \$100,000 EACH OCCURRENCE |
| F. MEDICAL PAYMENTS TO OTHERS | \$1,000 EACH PERSON |

IN CASE OF LOSS UNDER SECTION 1, WE COVER ONLY THAT PART OF THE LOSS OVER THE DEDUCTIBLE STATED: \$250 ALL PERILS

| FORMS AND ENDORSEMENTS MADE A PART OF THIS POLICY: | | PREMIUM |
|--|---------------------------------------|---------|
| H0-3 | 04-84 SPECIAL FORM | INCL |
| H0-4 | 04-84 RESIDENT PREMISES 3 OR 4 FAMILY | INCL |
| H0-2 | 01-87 PERSONAL PROPERTY REPLACEMENT | INCL |
| H0-30 | 11-87 SPECIAL POLICY PROVISIONS | INCL |
| H0-32 | 09-87 HOME DAY CARE EXCLUSION | INCL |
| H0-35 | 09-87 SUPPLEMENTAL PROVISIONS END | INCL |
| 125379 | 09-87 EXTRA MEASURE OF PROTECTION | INCL |

PETITIONER'S
EXHIBIT No 2

| SIGNATURE OF AUTHORIZED AGENT | DATE OF ISSUE | BASIC TOTAL PREMIUM |
|-------------------------------|---------------|----------------------|
| 19-005-525 01 | 10-01-89 | \$674.00 \$674.00 |

HIP-09-B-20-06-BAL EPIR4 06J9-01

INSURED COPY

5143-1-83

AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Ruth M. Vick
AFFIANT (Handwritten Signature)
Ruth M. Vick
AFFIANT (Printed Name)

Based upon your personal knowledge, please answer the following questions by indicating yes or no in the space provided:

1. Can you verify by this affidavit, and/or testify in Court if necessary, that the home located at 3 St Timothy's Lane, Catonsville, Md has been occupied as a Four (4) apartment dwelling since March 1959 year yes (month) (year) (answer)
2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since March 1959 year yes (month) (year) (answer)
3. Will you realize any gain from the sale of this Property? No (answer)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 14th day of June, 1993, before me, a Notary Public of the State of Maryland, in and for the County of Baltimore, personally appeared Ruth M. Vick, the Affiant herein, personally known or satisfactorily identified to me as such, and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

PETITIONER'S
EXHIBIT 3A

NOTARY PUBLIC
My Commission Expires: 12-1-96

AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Gladys Schaub
AFFIANT (Handwritten Signature)
GLADYS SCHAUB
AFFIANT (Printed Name)

Based upon your personal knowledge, please answer the following questions by indicating yes or no in the space provided:

1. Can you verify by this affidavit, and/or testify in Court if necessary, that the home located at 3 St Timothy's Lane, Catonsville, Md has been occupied as a Four (4) apartment dwelling since May 1959 year yes (month) (year) (answer)
2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since May 1959 year yes (month) (year) (answer)
3. Will you realize any gain from the sale of this Property? No (answer)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 14th day of June, 1993, before me, a Notary Public of the State of Maryland, in and for the County of Baltimore, personally appeared GLADYS SCHAUB, the Affiant herein, personally known or satisfactorily identified to me as such, and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

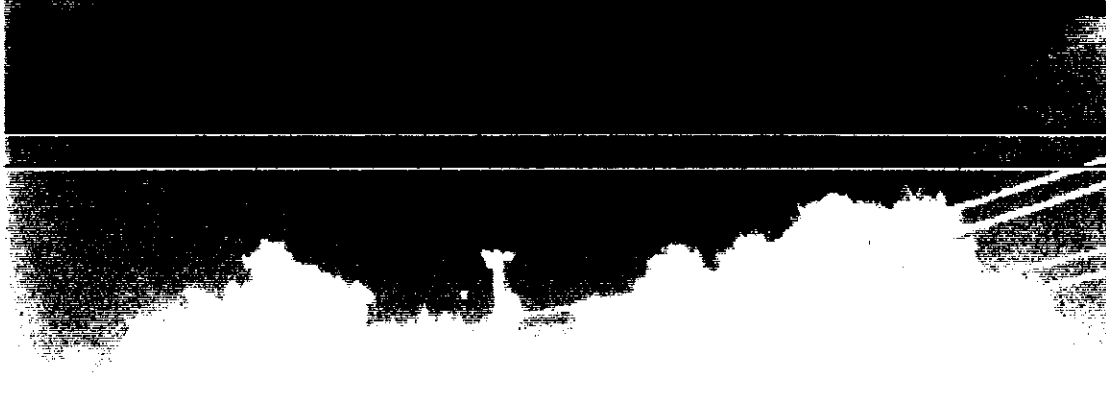
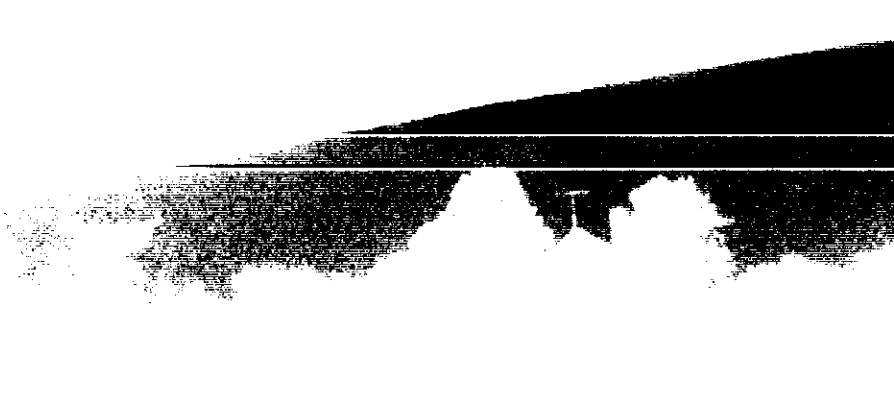
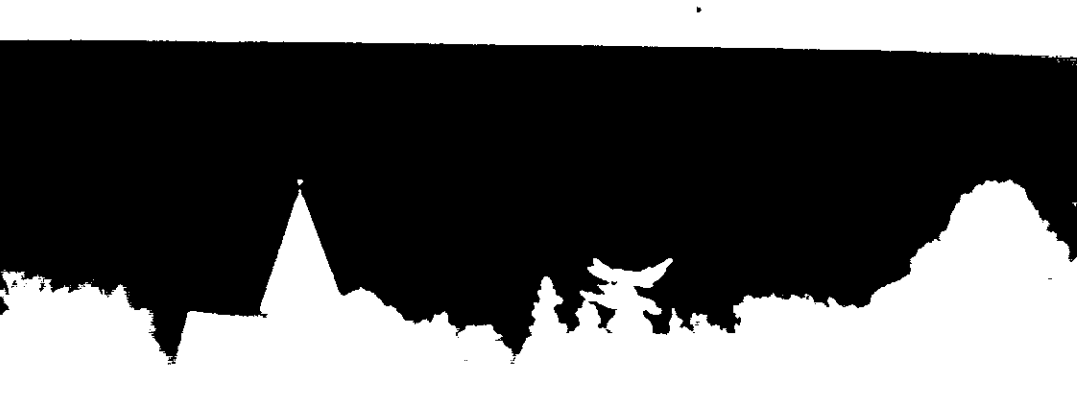
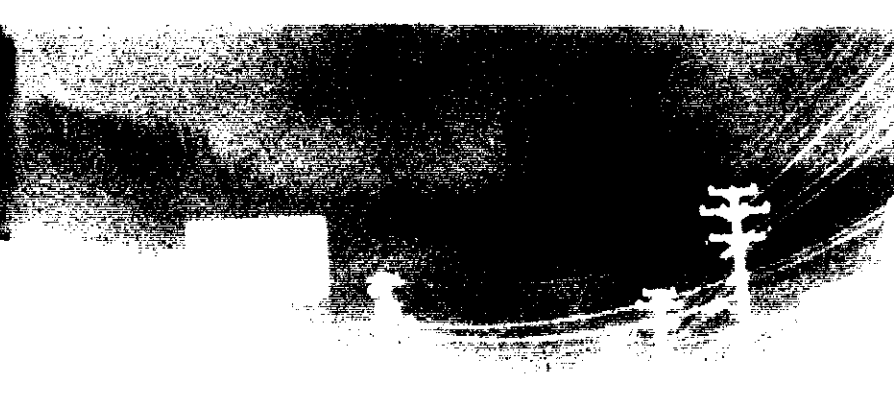
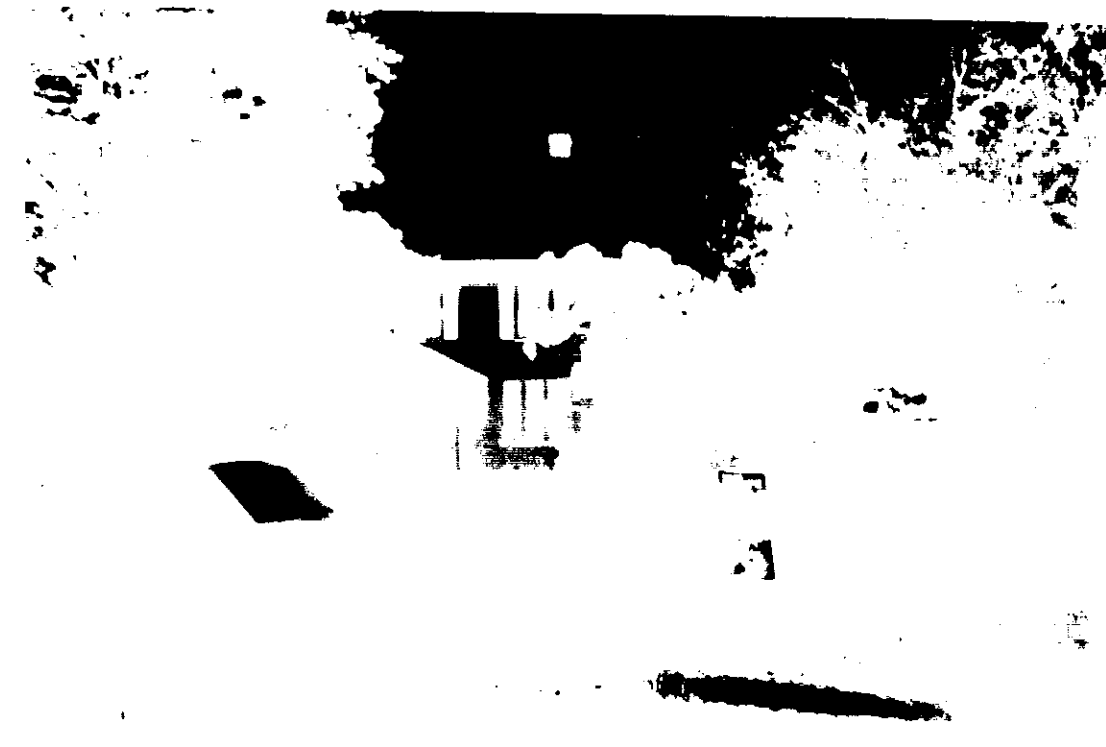
AS WITNESS my hand and Notarial Seal.

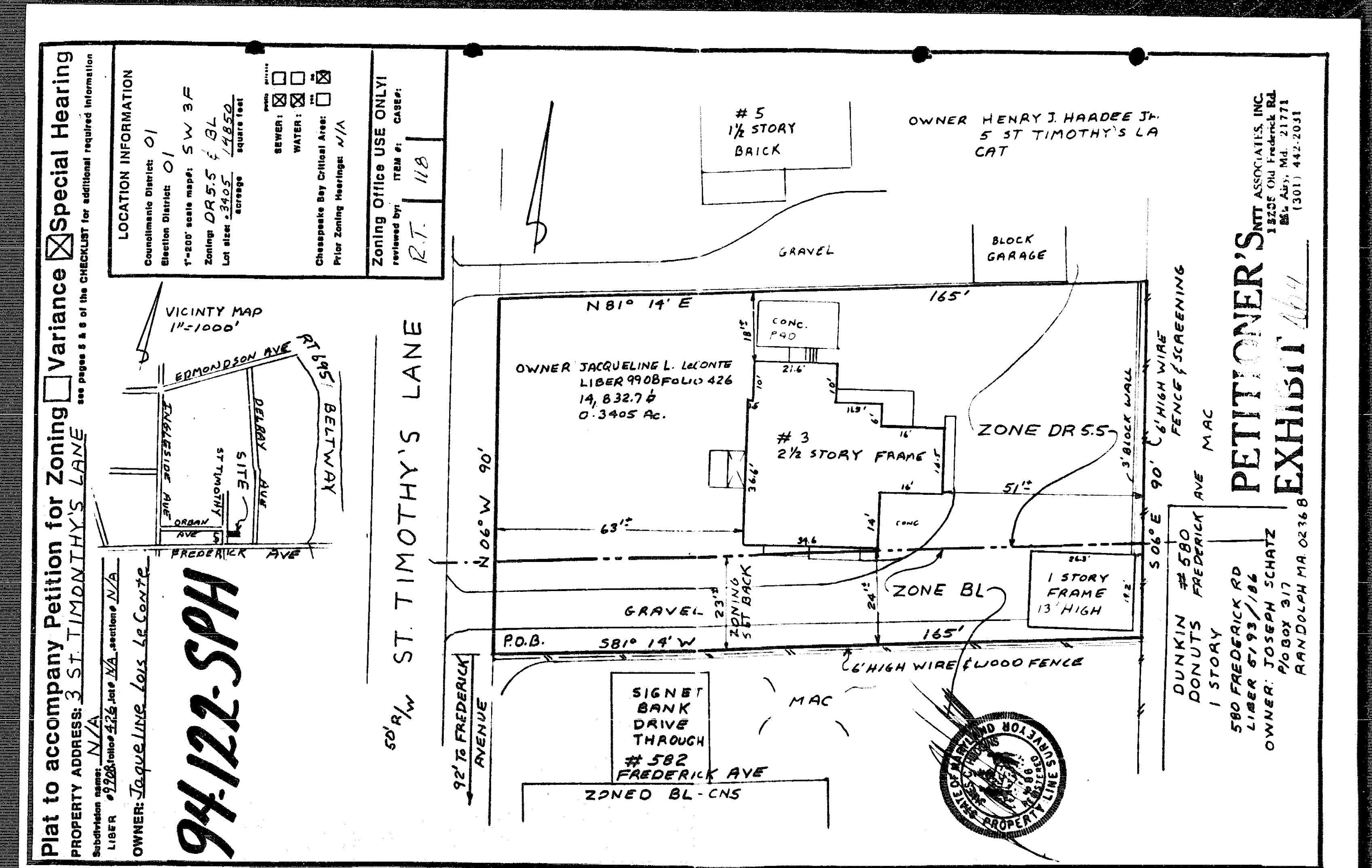
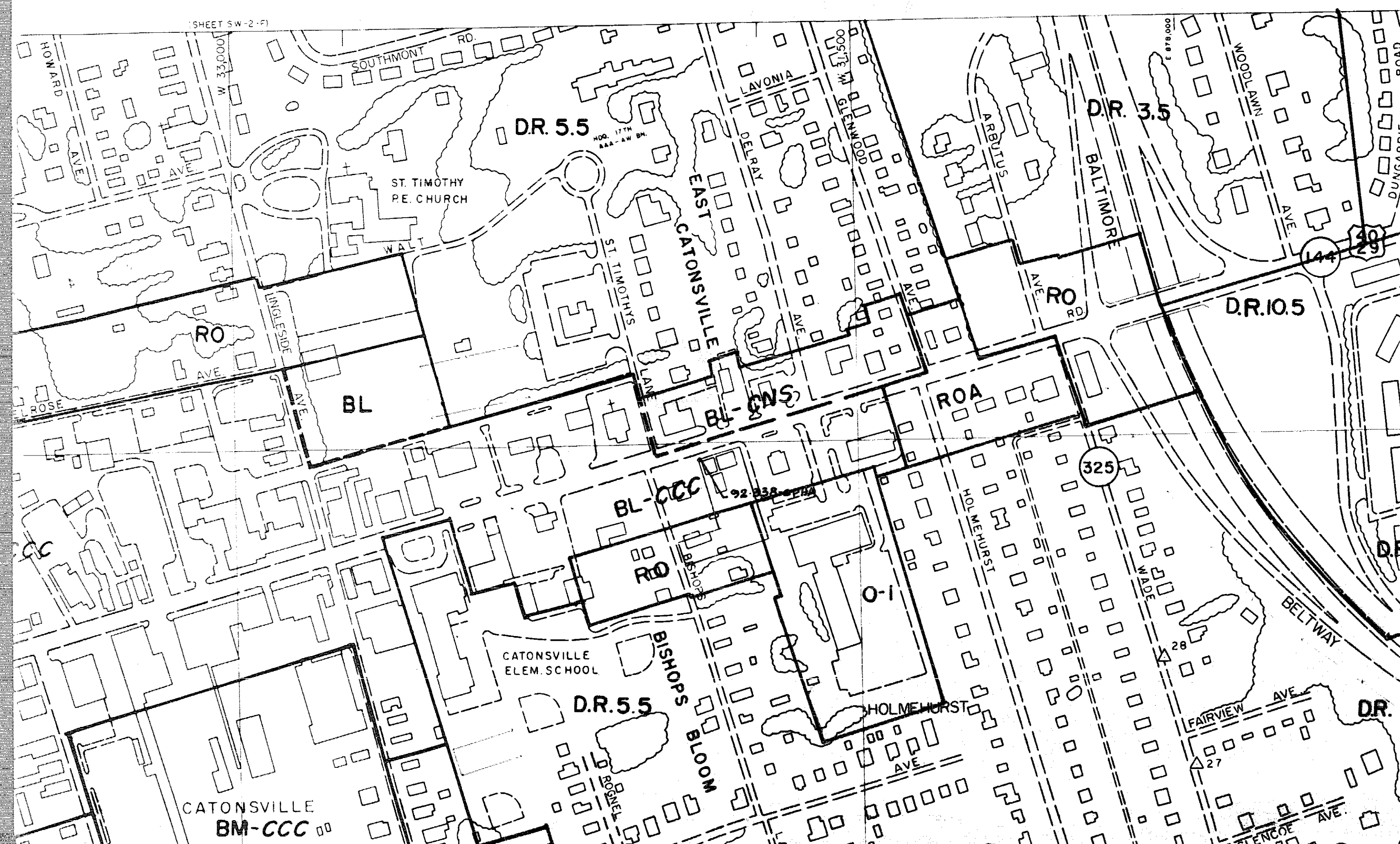
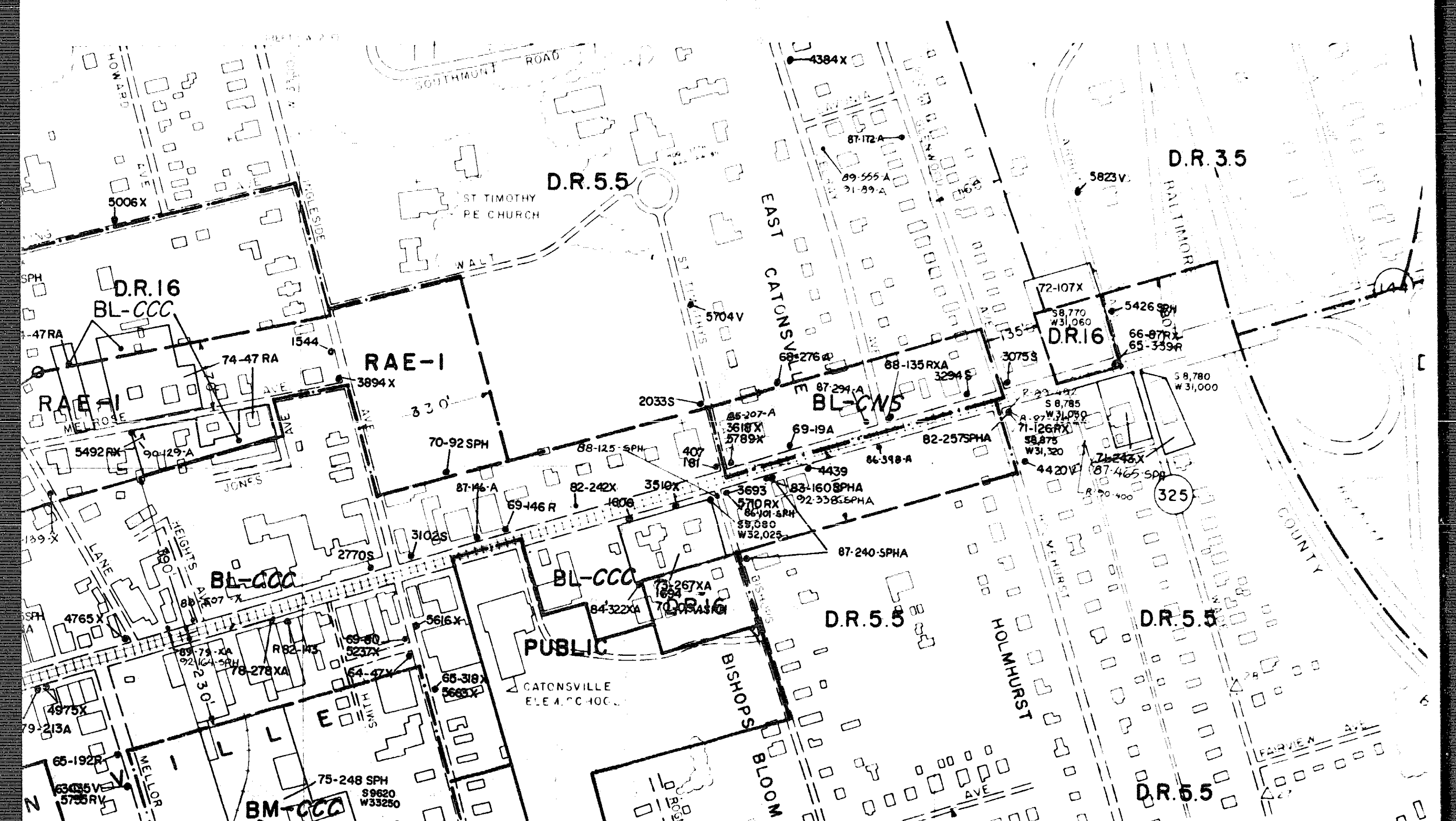
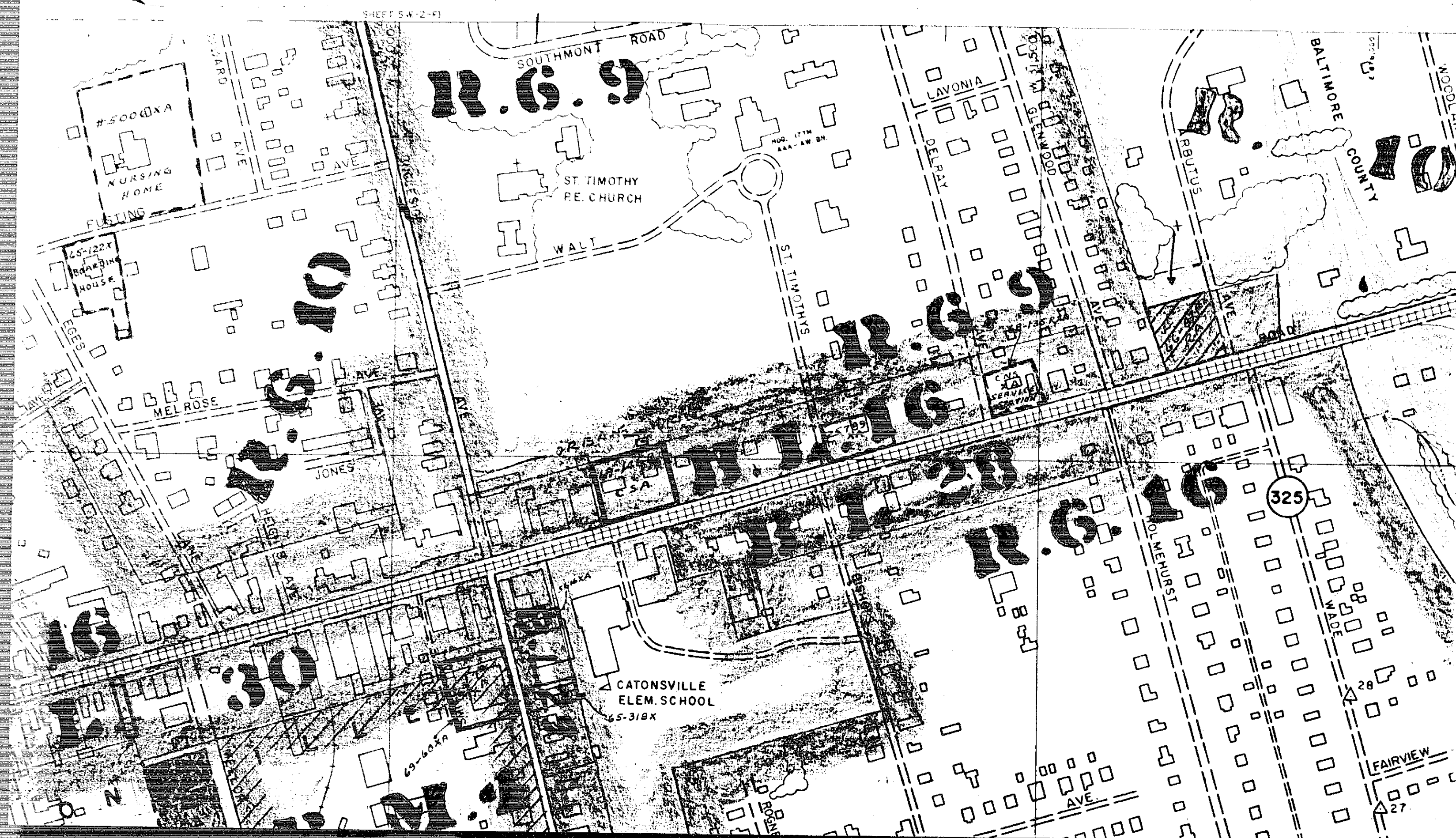
PETITIONER'S
EXHIBIT 3B

NOTARY PUBLIC
My Commission Expires: 12-1-96



Baltimore County
Zoning Commission
Office of Planning & Zoning
100 South Maryland 21201







H-NE G-NW
H-SE G-SW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

Map Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92

William Howard
Chairman, County Council

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION

CATONSVILLE
ITEM # 118

SHEET

S.W.
3-F

94-122-SPH